

1 Mr. Boltz, according to his 2004 examination. However, to satisfy the SEC, Bryan Cave thought
2 it would be prudent to verify the existence of those assets.

3 **(5) The Odyssey of Anhut and Ernst & Young**

4 Mathew Anhut was Bryan Cave's main contact with Ernst & Young regarding the
5 verification of the NAA assets. During his 2004 examination, Mr. Boltz claimed he "had great
6 confidence in Mr. Anhut pursuing the verification of these assets. He was an experienced
7 counsel." Mr. Anhut, however, had never worked on such a project.

8 In March 2000, Bryan Cave retained Ernst & Young to verify Slatkin's assets at NAA
9 Financial. Bryan Cave provided Ernst & Young with some records from NAA Financial, but
10 both Bryan Cave and Ernst & Young recognized that the records were not adequate to verify the
11 assets.

12 In April 2000, Ernst & Young told Bryan Cave it was "still waiting for accounts to
13 review" and that it "[hadn't] heard from Axiall [the purported contact for obtaining NAA
14 information] yet."

15 But Bryan Cave told the SEC that "NAA is in the process of providing documents to
16 Ernst & Young and Ernst & Young will provide a report soon."

17 In May 2000, a "Mr. Axiall" told Bryan Cave that NAA Financial "may not be able to
18 provide you with the level of detail required [to conduct the verification]."

19 But Bryan Cave told the SEC that the Ernst & Young report would be provided on June 1
20 and, later in the month, that the Ernst & Young report would be provided at the end of August.

21 In an e-mail exchange between Bryan Cave and Ernst & Young in July 2000, the Ernst &
22 Young accountant heading up the verification process wrote to Bryan Cave: "*I've never heard
23 from Mitch [Axiall]. I have received absolutely no information.*"

24 Mr. Anhut, however, claims that Ernst & Young's partner was wrong to say that he never
25 heard from Mr. Axiall and received no information. Instead, Mr. Anhut says this e-mail was
26 only "hyperbole." But in an email later that month, Mr. Anhut told Ernst & Young that "[Bryan
27 Cave was] obviously quite concerned about [Axiall, NAA, and another individual party] not
28 providing you/E&Y with information and documents."

1 In negligence cases generally, the court must determine -- as a matter of law -- whether
2 the defendant owed plaintiff a duty such that a "breach" may be actionable.² In legal malpractice
3 cases, however, by accepting employment, attorneys accept the duty to meet the professional
4 standard of care, i.e., to use such skill and prudence that attorneys of ordinary skill and capacity
5 commonly possess and exercise. See Kirsch v. Duryea, 21 Cal. 3d 303, 308 (1978). Specialists
6 are held to a higher standard of care and must exercise the skill, prudence, and diligence
7 exercised by other specialists of ordinary skill and capacity specializing in the same field.
8 Wright v. Williams, 47 Cal. App. 3d 802, 809-10 (1975). "The duty encompasses both a
9 knowledge of law and an obligation of diligent research and informed judgment." See *id.* at 809.

10 A claim against Bryan Cave could boil down to whether Bryan Cave met the appropriate
11 standard of care. In other words, whether specialists, like Mr. Boltz, would have learned the
12 facts regarding Mr. Slatkin's assets and the liquidation of his investor accounts. The Plan
13 Proponents believe the evidence supports a conclusion that Bryan Cave's lawyers did not meet
14 the appropriate standard of care, and that the resulting damage could exceed \$80,000,000. Bryan
15 Cave has indicated that it will contest any claim brought against it, and that it has complete
16 defenses to all causes of action.

17 2. Bank Litigation

18 The Chapter 11 Trustee, along with the members of the Creditors' Committee in their
19 individual capacities, have already sued three financial institutions for their role in assisting
20 Slatkin's Ponzi scheme. That case is entitled R. Todd Neilson v. Union Bank of California, case
21 no. CV 02-6942 LGB (RNBx), and was filed in the United States District Court, Central District
22 of California (the "Bank Complaint").³ The introductory statement of the lawsuit summarizes
23 the allegations as follows:
24

25
26 ² To determine whether a duty exists, courts consider a variety of policy questions, including the social utility of
27 the defendant's action, the foreseeability of harm to the plaintiff, the closeness of the connection between the
28 defendant's conduct and the plaintiff's injury, the moral blame attached to the defendant's conduct, the policy of
preventing future harm, the extent of the burden to the defendant and consequences to the community of imposing a
duty, and the availability, cost, and prevalence of insurance for the risk involved. See Parsons v. Crown Disposal
Co., 15 Cal. 4th 456, 472-73 (1997).

³ Fred Ockrim is also a named plaintiff in this case. Mr. Ockrim is a creditor who deposited money at Pacific Inland Bank.

1 “Reed Slatkin is the mastermind behind a Ponzi scheme that allowed him to bilk victims
2 out of hundreds of millions of dollars. But he couldn’t have executed his scheme without the
3 help of Union Bank, Imperial Trust and Pacific Inland Bank (“Banks”). These Banks sent out
4 fraudulent statements on their letterhead regarding the value of Mr. Slatkin’s fictitious
5 investments, (which statements the Banks purported to “certify”), they made fraudulent oral and
6 written representations to investors, Union Bank gave Mr. Slatkin millions of dollars in
7 unsecured loans (even after Union Bank knew he was under investigation by the SEC), Union
8 Bank permitted him routinely to overdraw his accounts by hundreds of thousands of dollars in
9 order to pay investor withdrawal requests, the Banks allowed Mr. Slatkin to commingle his
10 victims’ assets within the Banks, and the Banks gave Mr. Slatkin the aura of legitimacy that he
11 needed to continue to fool his victims. The Banks didn’t support Mr. Slatkin’s scheme for free,
12 however. They earned millions of dollars in profits working side by side with Mr. Slatkin. One
13 of the Banks’ officers even accepted bribes from Mr. Slatkin.

14 The business practices followed by the Banks unfortunately have become all too familiar
15 in corporations across the country: executives, motivated solely by profits and lining their own
16 pockets, turned a willing blind eye to a massive financial scam, the results of which have caused
17 enormous financial hardship.

18 Mr. Slatkin is bankrupt and in jail because of what he did. Plaintiffs bring this action to
19 hold the Banks accountable for the devastating harm they helped cause. That harm exceeds
20 \$250,000,000. Plaintiffs also seek an award of punitive damages against the Banks.”

21 As noted above, the Chapter 11 Trustee has already uncovered evidence that indicates
22 that a bank officer accepted financial inducements from Slatkin. The Banks also made repeated
23 misrepresentations to certain investors about the status of the investors’ accounts with the Banks.
24 As alleged in the Bank Complaint, the Banks purported to certify their statements to investors
25 based upon supposed audited financial statements of Slatkin’s affairs that didn’t exist. Union
26 Bank provided Slatkin with millions of dollars in unsecured credit, even after Union Bank knew
27 the SEC was investigating Slatkin. Union Bank also, in violation of its own policies, floated
28

1 Slatkin hundreds of thousands of dollars in overdrafts so that he could pay withdrawal requests
2 when Slatkin didn't have the money to do so.

3 This lawsuit is a putative class action. The class members are defined as "[a]ll
4 individuals or entities who (1) entrusted money to Reed E. Slatkin to invest on their behalf; and
5 (2) received in return less money than they entrusted to Reed E. Slatkin to invest." There is also
6 a sub-class which is defined as "[a]ll individuals and entities that (1) were, or reasonably
7 believed that they were, limited partners of the Reed Slatkin Investment Club, L.P. (the "Club");
8 (2) allowed Reed E. Slatkin to manage and/or direct their investments in the Club through
9 account(s) held at Pacific Inland Bank and/or Imperial Trust Company and/or Union Bank
10 ("Club account(s)"); and (3) received in return less money from Reed E. Slatkin than they
11 entrusted to him to invest." In the near future, the plaintiffs in this lawsuit will bring a motion to
12 certify the class action. If you fall within the definition of a class member or a sub-class
13 member, you will receive separate notice of that motion. You will have the opportunity to "opt-
14 out" of the class action if you choose. If you do opt-out, you will need to retain your own
15 counsel at your own expense to prosecute claims you may have against the Banks.

16 There will be money set aside within the Liquidating Trust to fund third-party litigation,
17 including the litigation against the Banks. The plaintiffs in the litigation against the Banks
18 believe they have a strong case against the Banks, but cannot make any predictions or guarantees
19 about the outcome. The Chapter 11 Trustee expects that the Banks will vigorously defend this
20 case.

21 **O. Boomtown/Beacon Litigation**

22 On February 28, 2002, Boomtown Investments, LLC, a Delaware limited liability
23 company ("Boomtown"), Beacon Media Group, LLC, a Delaware limited liability company
24 "BMG"); and Armyan Bernstein, an individual (collectively the "Plaintiffs") filed their
25 "Complaint for Declaratory Relief and Rescission" (the "Boomtown Complaint") against the
26 Chapter 11 Trustee. Among other things, the Boomtown Complaint sought (1) to rescind the
27 limited partnership agreements which formed Boomtown and BMG, and pursuant to which
28

1 In November 2002, the Chapter 11 Trustee entered into a settlement agreement (the
2 "Settlement Agreement") pursuant to which the Beacon Parties, the Bernstein Parties and the
3 Chapter 11 Trustee agree to fully settle and resolve all of their current and potential disputes and
4 claims, asserted, threatened or which could have been asserted between them. A hearing in the
5 Bankruptcy Court is set for December 20, 2002 on the "Motion By Chapter 11 Trustee For (1)
6 Approval of Settlement Agreement with Beacon Parties and Bernstein Parties Pursuant to Rule
7 9019 of the Federal Rules of Bankruptcy Procedure and (2) Sale of Assets Pursuant to 11 U.S.C.
8 Section 363(b)(1), (f)."

9 As set forth in more detail in the Settlement Agreement itself, pursuant to the Settlement
10 Agreement, (1) in respect of the Slatkin Boomtown Interest, Boomtown shall deposit
11 \$3,328,140.70 into the Escrow Account, which Escrow Account shall also include \$432,246.19
12 deposited in June, 2002 by BMG and Boomtown; (2) in respect of the Slatkin BMG Interest,
13 BMG shall deposit \$371,859.30 into the Escrow Account; (3) simultaneously with the two
14 aforementioned deposits, the Chapter 11 Trustee shall sell, transfer and assign all of the
15 Bankruptcy Estate's right, title and interest in and to the Slatkin Boomtown Interest and the
16 Slatkin BMG Interest free and clear of all interests, save for the O'Donnell Claims, to Boomtown
17 and BMG, respectively, (4) following Final Court Approval of the Settlement Agreement,
18 Bernstein shall pay \$1.5 million to the Chapter 11 Trustee; (5) all amounts deposited into the
19 Escrow Account shall be held in the Escrow Account pending Final Court Approval of the
20 Settlement Agreement and Resolution of the O'Donnell Claims; (6) the Beacon Parties,
21 Bernstein Parties, the Chapter 11 Trustee and the Estate shall execute mutual, general releases
22 with exceptions; and (7) the amounts deposited into the Escrow Account shall be released in
23 accordance with the terms of the Settlement Agreement, which terms vary depending on the
24 receipt of Final Court Approval and the Resolution of O'Donnell Claims.

25 **P. Current Operations and Assets**

26 Table 2 below illustrates the Chapter 11 Trustee's cash flow analysis as of September 30,
27 2002 ("Cash Flow Analysis"). This Cash Flow Analysis is based on the Chapter 11 Trustee's
28 Monthly Operating Reports and Monthly Interim Statements filed with the United States Trustee

1 since the Slatkin Petition Date, which are available at the Office of the United States Trustee,
2 located at 725 South Figueroa Street, Suite 2600, Los Angeles, California 90017. As per the
3 Chapter 11 Trustee's Monthly Operating Reports and Monthly Interim Statements, aggregate
4 receipts as of September 30, 2002 were \$22,082,031.96. Aggregate disbursements as of
5 September 30, 2002 were \$7,233,667.42, leaving a net cash balance of \$14,848,364.54 .

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DETAIL FOR TABLE 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Asset Sales:

Raptor Partners Settlement	\$ 7,544,103.06
Sale of Apollo Medical	2,246,244.27
Sales of Securities	2,234,901.18
Sale of 4480 Via Esperanza	2,165,964.75
Sale of Earthlink Stock	1,713,059.51
Sale of Roble Blanco Property	1,608,898.46
Sale of 4484 Via Esperanza	1,294,444.36
Sale of Kellogg Property	712,654.37
Sale of Riley Road	275,002.33
Sale of Strand Energy	142,247.25
Fortress Technologies Settlement	100,000.00
Sale of La Cumbre	90,779.33
Sale of Brewer Road	52,000.00
Sale of Wine	25,563.75
Sale of El Cabellero Country Club	25,515.88
Sale of Volvo	22,100.00
Telsoft Solutions Settlement	20,833.70
Sale of Corvette	19,000.00
Sale of Porsche	100,243.00
Total Asset Sales	<u>\$20,393,555.20</u>

Miscellaneous Receipts:

Boult Cummings reimbursement	\$ 65,001.62
Interest	25,218.71
Miscellaneous	13,279.12
Misc. Escrow Turnover	6,450.00
Mancuso Escrow Turnover	6,164.00
Rents	3,400.00
Net Debtor Collections	480.86
Dividends	419.44
Total Miscellaneous Receipts	<u>\$ 120,413.75</u>

	Professional	Scope of Representation	Date Approved
1			
2	4. Crossroads, LLC ("Crossroads")	The Slatkin Estate has numerous direct and indirect interests in developed and undeveloped real property. Crossroads is a real estate expert retained by the Trustee to advise him concerning commercial real estate ownership, development, management, operations, financing, structuring, restructuring and hotel and real estate evaluation. Crossroads also assisted the Chapter 11 Trustee in his due diligence in connection with settlement negotiations with Boomtown and Beacon Media, with attention to the Slatkin Estate's interests	Order entered November 6, 2001
3			
4			
5			
6			
7			
8	5. Hamburg, Hanover, Edwards & Martin, LLP	Special litigation counsel in the Infinity Acceptance receivership case	Order entered September 13, 2001
9			
10	6. Lombard, Knudsen & Holtey, LLP	Oregon real estate and water rights special counsel	Order entered September 13, 2001
11			
12			
13			
14	7. Grant Newton	Hired as accounting consultant and expert witness to advise the Chapter 11 Trustee with respect to accounting and tax issues that may arise in connection to motions and litigation in the Slatkin Case.	Order entered March 29, 2002
15			
16	8. Misc professionals employed under seal	Pursuant to Bankruptcy Court orders, the Chapter 11 Trustee also retained specific professionals in order to carry out specific investigations on behalf of the Slatkin Estate.	Orders entered on November 20, 2001 and March 21, 2002
17			
18	9. Automobile, real estate, stock and wine brokers, and an auctioneer.	Throughout the Slatkin Case, the Chapter 11 Trustee retained an auctioneer and various brokers to assist in the sale of assets of the Slatkin Estate.	Orders entered on various dates
19			
20	10. Pachulski Stang Ziehl Young & Jones PC	General bankruptcy counsel to Reed Slatkin in his chapter 11 case, effective May 1, 2001 (prior to the appointment of the Chapter 11 Trustee).	Order entered September 20, 2001
21			
22	11. Deloitte & Touche LLP ("D&T")	Deloitte & Touche LLP ("D&T"), as special forensic accountants. D&T was initially employed to hold voluminous documents and have them imaged, prior to the formation of the Committee and appointment of the Trustee.	Order entered May 16, 2001

III. SUMMARY OF THE PLAN OF REORGANIZATION

THE DISCUSSION OF THE PLAN SET FORTH BELOW IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED PROVISIONS SET FORTH IN THE PLAN AND ITS EXHIBITS, THE TERMS OF WHICH ARE CONTROLLING. HOLDERS OF CLAIMS OR INTERESTS AND OTHER INTERESTED PARTIES ARE URGED TO READ THE PLAN AND THE EXHIBITS THERETO IN THEIR

1 Slatkin Estate, the Topsight Estate and RSIC, will be eliminated as a result of substantive
2 consolidation under the Plan. Furthermore, for the purposes of substantive consolidation and any
3 actions or motions brought by the Chapter 11 Trustee under Sections 363, 365 and Sections 501
4 to 558, inclusive, of the Bankruptcy Code, RSIC shall be treated as if an order for relief for RSIC
5 had been entered on the Slatkin Petition Date.

6 **a. Other Effects of Substantive Consolidation**

7 As set forth in Section 3.2 of the Plan, as a result of substantive consolidation, a holder of
8 Claims against one or more of the Slatkin, Topsight, the Slatkin Estate, the Topsight Estate or
9 RSIC arising from or relating to the same underlying debt that would otherwise constitute
10 Allowed Claims against two or more of Slatkin, Topsight, the Slatkin Estate, the Topsight Estate
11 or RSIC, including Claims based on joint and several liability, contribution, indemnity,
12 subrogation, reimbursement, surety, guaranty, co-maker and similar concepts, shall have only
13 one Allowed Claim on account of such Claims. In addition, all Claims between and among
14 Slatkin, Topsight, the Slatkin Estate, the Topsight Estate and RSIC are eliminated as a result of
15 substantive consolidation under the Plan.

16 **b. Procedure for Asserting Claims Against and Interests in**
17 **Topsight and/or RSIC**

18 To implement the substantive consolidation of the Slatkin Estate with the Topsight Estate
19 and RSIC, at or before the mailing of this Disclosure Statement to the holders of Claims and
20 Interests and other parties in interest, the Debtors will be mailing a separate notice informing
21 them of (1) the proposed substantive consolidation of the Slatkin Estate, the Topsight Estate and
22 RSIC under the Plan, and (2) the requirement under the Plan that the Bankruptcy Court issue a
23 separate order at or before the hearing on the Disclosure Statement ordering that any and all
24 Claims against Topsight and RSIC must be filed with the Bankruptcy Court and delivered to the
25 attorneys for the Chapter 11 Trustee on or before a date set by the Bankruptcy Court that is no
26 later than the last day and time set by the Bankruptcy Court for the filing and delivery of
27 objections to the confirmation of the Plan [] or such Claims shall be
28 forever barred from participating in any distributions from the Slatkin Estate, the Topsight

1 Cir. 1988) and rejecting the test from the District of Columbia in In re Auto Train Corp. Inc., 810
2 F.2d 270 (D.C. Cir. 1987)). The Second Circuit test for substantive consolidation was
3 formulated in In re Augie/Restivo Baking Co., Ltd., 860 F.2d 515, 518 (2d Cir. 1988).
4 Substantive consolidation is permissible under the Augie/Restivo test when the plan proponents
5 can demonstrate either that (a) the creditors dealt with the entities as a single unit and did not rely
6 on their separate identity in extending credit, or (b) the affairs of the entities to be consolidated
7 are so "entangled" that consolidation will benefit all creditors because untangling of the
8 commingled assets is impossible or would impose an exorbitant cost, causing absorption of the
9 assets. In re Augie/ Restivo Baking Co., Ltd., 860 F.2d at 518.

10 **(2) Factors to Consider in Making a Determination re**
11 **Substantive Consolidation**

12 In more specific terms, courts examine numerous factors in determining whether
13 substantive consolidation is appropriate. Factors enumerated by the courts in determining
14 whether consolidation is appropriate include the following:

- 15 (a) The degree of difficulty in segregating and ascertaining individual assets and
16 liabilities;
- 17 (b) The presence or absence of consolidated financial statements;
- 18 (c) The profitability of consolidation at a single physical location;
- 19 (d) The commingling of assets and business functions;
- 20 (e) The unity of interests and ownership between the various corporate entities;
- 21 (f) The existence of parent and intercorporate guarantees or loans; and
- 22 (g) The transfer of assets without formal observance of corporate formalities.

23 In re Bonham, 229 F.3d at 765 n.10 (recognizing and listing the non-determinative list of factors
24 that a court should consider as set out in In re Vecco Construction Industries, Inc., 4 B.R. 407,
25 410 (Bankr. E.D. Va. 1980).

26 **(3) Substantive Consolidation of Non-Debtor Affiliates**

27 Many substantive consolidation cases involve the consolidation of debtor entities or one
28 or more non-debtor entities with debtor entities "in furtherance of the equitable goals of

1 substantive consolidation.” In re Bonham, 229 F.3d 750, 765 (9th Cir. 2000); see also In re
2 United Stairs Corp., 176 B.R. 359 (Bankr. D.N.J. 1995); In re New Center Hospital, 187 B.R.
3 560 (E.D. Mich. 1995). Courts apply the same analysis for the substantive consolidation of
4 debtors and non-debtors as is employed in the substantive consolidation of debtors. *Id.*

5 **d. Slatkin, Topsight and RSIC Meet the Criteria for Substantive**
6 **Consolidation**

7 In In re Bonham, the Ninth Circuit held that, under the Second Circuit test, substantive
8 consolidation was proper where the debtor, who ran a Ponzi scheme prior to the bankruptcy case,
9 had commingled her personal assets with those of two no-debtor estates entities and often
10 commingled the names of the entities, where there was no clear demarcation between the affairs
11 of the debtor and those of the two non-debtor estates, and where the exercise of disentangling the
12 affairs of the entities would be needlessly expensive and possibly futile. In re Bonham, 229 F.3d
13 at 767.

14 Similarly, the Plan Proponents believe that substantive consolidation in this case is
15 legally and equitably justified and appropriate because of (1) the unity of interests and ownership
16 of Topsight and RSIC by Slatkin and the commingling of the assets of Slatkin, Topsight and
17 RSIC, evidenced by the fact that Slatkin owned 100% of the stock of Topsight, was the general
18 partner of RSIC, and moved money freely in and out of RSIC and Topsight; (2) the
19 interrelationships of Slatkin’s, Topsight’s, and RSIC’s various businesses and the perpetuation
20 operation of Slatkin, Topsight and RSIC as a single entity for all practical purposes; (3) the
21 commingling of both the cash and the bank accounts of Slatkin, Topsight and RSIC; and (4) the
22 difficulty, cost and probable impossibility of segregating accurately the profitability, assets and
23 liabilities of each of Slatkin, Topsight and RSIC. Thus, the Plan Proponents believe that the
24 characteristics of Slatkin, Topsight and RSIC satisfy the legal requirements enumerated by the
25 Ninth Circuit for substantive consolidation. Furthermore, the Plan Proponents believe that
26 substantive consolidation of the Slatkin Estate, the Topsight Estate and RSIC will result in the
27 most equitable treatment of similarly situated creditors without unduly prejudicing any particular
28 Class.

1 shall be paid after the Effective Date in accordance with the terms of the Allowed Administrative
2 Expense Claim.

3 **2. Priority Tax Allowed Claims**

4 Priority Tax Allowed Claims are certain unsecured income, employment and other taxes
5 of the kind described in Section 507(a)(8) of the Bankruptcy Code. The holder of a Priority Tax
6 Allowed Claim shall receive on the Effective Date, or as soon as practicable thereafter, on
7 account of and in full satisfaction of the Priority Tax Allowed Claim, Cash equal to the amount
8 of the Priority Tax Allowed Claim, unless the holder agrees to a different treatment.

9 **3. Class 1 (Non-Tax Priority)**

10 The Chapter 11 Trustee believes that there are no holders of Allowed Claims in Class 1;
11 however to the extent that any Class 1 claims are deemed to exist, they shall be treated in the
12 following manner. Class 1 is impaired under the Plan. The holders of Allowed Claims in Class
13 1 are entitled to vote on the Plan. The Allowed Claims in Class 1 are entitled to priority
14 treatment under Section 1129(a)(9)(B) of the Bankruptcy Code. The holder of an Allowed
15 Claim in Class 1 shall receive on the Effective Date, or as soon as practicable thereafter, on
16 account of and in full satisfaction of the Allowed Claim, Cash equal to the amount of the
17 Allowed Claim, unless the holder agrees to a different treatment.

18 **4. Class 2 (Secured)**

19 The Chapter 11 Trustee believes that there are no holders of Allowed Claims in Class 2.
20 Although Mancuso asserts a secured Claim, which amounts to a post-petition statutory lien
21 against the Sea Greens Property under 11 U.S.C. § 365(j) of the Bankruptcy Code by virtue of
22 the Chapter 11 Trustee's rejection of what Mancuso deems to be an executory contract for the
23 purchase of the Sea Greens Property, the Chapter 11 Trustee disputes this claim in its entirety
24 and seeks a determination from the Bankruptcy Court that Mancuso has no interest in the Sea
25 Greens Property or its proceeds. To the extent that any Class 2 claims are deemed to exist, they
26 shall be treated in the following manner. The holder of an Allowed Claim in Class 2 shall, at the
27 sole election of the Chapter 11 Trustee or the Topsight Trustee, receive on the Effective Date, on
28 account of and in full satisfaction of the Allowed Claim, either (a) Cash equal to the amount of

1 the Secured Allowed Claim, unless the holder of the Secured Allowed Claim agrees to a different
2 treatment, (b) possession of the property in which the holder of the Secured Allowed Claim has a
3 perfected, unavoidable and enforceable lien, security interest or other charge and be granted
4 relief from the automatic stay of Section 362 of the Bankruptcy Code to foreclose, collect upon
5 or setoff the property in accordance with applicable nonbankruptcy law, or (c) receive payment
6 or performance in accordance with the agreement under which the Secured Allowed Claim arose.
7 The election of the Chapter 11 Trustee or the Topsight Trustee to provide one of the foregoing
8 treatments to the holder of each Secured Allowed Claim in each subclass in Class 2 shall be
9 made on or before the Effective Date. Class 2 is unimpaired under the Plan, and thus all holders
10 of Class 2 Allowed Claims are deemed to have accepted the Plan and are not entitled to vote on
11 the Plan.

12 **5. Class 3 (Unsecured Convenience for Tax Settlement Purposes)**

13 Class 3 is impaired under the Plan. The holders of Allowed Claims in Class 3 are entitled
14 to vote on the Plan. An Allowed Claim in Class 3 arises only if a holder of an Allowed Claim in
15 Class 4 elects to have the Allowed Claim in Class 4 be treated instead as an Allowed Claim in
16 Class 3. The election must be made in the ballot accompanying the Plan and delivered to the
17 attorneys for the Creditors' Committee, as indicated on the first page of this Plan. The holder of
18 an Allowed Claim in Class 3 shall receive one-hundred dollars (\$100.00), in full and complete
19 settlement of all of such holder's Claims upon the Effective Date. Electing to be treated as the
20 holder of an Allowed Claim in Class 3 may provide the holder of a General Unsecured Claim a
21 sense of finality if he or she no longer wishes to be involved in the process of the Liquidating
22 Trust.

23 **6. Class 4 (General Unsecured)**

24 Class 4 consists of all Allowed Claims against the Slatkin Estate, the Topsight Estate and
25 RSIC that are not Allowed Administrative Expense Claims, Priority Tax Allowed Claims or
26 Allowed Claims in Classes 1, 2, or 3. Class 4 also consists of purported Limited Partnership
27 Interests in RSIC which purported Interests, if any, shall be treated as Class 4 Claims under the
28

1 Plan. Class 4 is impaired under the Plan. The holders of Allowed Claims in Class 4 are entitled
2 to vote on the Plan.

3 As assets of the Liquidating Trust are liquidated, the Liquidating Trustee will make
4 distributions to holders of Allowed Claims in Class 4, who shall receive a Pro Rata share of the
5 Class 4 Allocated Available Cash on each Distribution Date. The Distribution Dates for all
6 distributions of Available Cash made by the Liquidating Trust shall be as often, in the sole
7 discretion of the Trustee subject to the provisions of Section 9 of the Liquidating Trust
8 Agreement, as there is Available Cash in an amount sufficient to make a distribution of
9 Available Cash practicable in comparison to the costs of making a distribution; provided,
10 however, that the Liquidating Trust shall make a distribution of Available Cash at least once
11 every twelve (12) months following the Effective Date unless the amount of Available Cash that
12 can be distributed at that time is less than \$50,000, as provided in section 6.6 of the Liquidating
13 Trust Agreement.

14 **7. Class 5 (Topsight Interests)**

15 Class 5 consists of Allowed Interests in Topsight. Class 5 is impaired under the Plan.
16 The holder of an Allowed Interest in Class 5 is not entitled to vote on the Plan and is deemed to
17 reject the Plan. The holder of Allowed Interests in Class 5 shall recover nothing under the Plan
18 and all such Class 5 Allowed Interests shall be deemed extinguished on the Effective Date.

19 **8. Class 6 (Purported RSIC General Partner Interest)**

20 Class 6 consists of the Slatkin purported general partner Interest in RSIC. Class 6 is
21 impaired under the Plan. The holder of the purported RSIC General Partner Interest in Class 6 is
22 not entitled to vote on the Plan and is deemed to vote to reject the Plan. The holder of the
23 purported RSIC General Partner Interest in Class 6 shall recover nothing under the Plan.
24 Nothing herein, however, is intended, nor shall be deemed in any way to limit, abridge, restrict,
25 or in any way affect the ability of the Chapter 11 Trustee, as Trustee under the Liquidating Trust,
26 to prosecute claims and causes of action and to seek recoveries of any kind for the benefit of the
27 Liquidating Trust in his capacity as successor to Slatkin as general partner of RSIC.
28

1 Anthony Podell, all of whom are members of the Creditors' Committee, to act as the Trust
2 Board; and (c) [_____], a Delaware banking corporation, to act as the Delaware
3 Trustee and administer the Liquidating Trust pursuant to the Liquidating Trust Agreement and
4 the Plan. These Liquidating Trustees shall serve without any bond and shall act in accordance
5 with the Liquidating Trust Agreement and the Plan. The Liquidating Trustees shall perform all
6 of their respective obligations under the Liquidating Trust Agreement and the Plan. The
7 Liquidating Trustees shall be the authorized representatives of the Estates for the purposes of
8 performing and consummating the Plan pursuant to the Bankruptcy Code. In accordance with
9 the Liquidating Trust Agreement, each of the individual Liquidating Trustees shall be
10 reimbursed from the Liquidating Trust for the reasonable expenses they incur in the performance
11 of their duties except for R. Todd Nielson who shall be paid monthly in accordance with Section
12 5.11 of the Liquidating Trust Agreement. In accordance with the Liquidating Trust Agreement,
13 the Delaware Trustee shall be paid from the Liquidating Trust approximately [\$_____] as an
14 initial fee, and approximately [\$_____] a year as an annual fee for its services and shall be
15 reimbursed from the Liquidating Trust for the reasonable expenses it incurs in the performance
16 of its duties. Each Liquidating Trustee shall serve for the duration of the Liquidating Trust,
17 subject to earlier death, resignation, incapacity or removal as provided in the Liquidating Trust
18 Agreement. The members of the Trust Board shall serve without compensation.

19 **b. Valuation of Liquidating Trust Assets**

20 As soon as practicable after the Effective Date, the Trustee shall apprise each of the
21 Holders of Beneficial Interests in the Liquidating Trust of the value of the Liquidating Trust
22 Assets deemed to be transferred to such Holder. The valuation shall be used consistently by all
23 parties (including the Chapter 11 Trustee, the Topsight Trustee, RSIC, the Trustee and the
24 Holders of Beneficial Interests in the Liquidating Trust) for all federal income tax purposes.

25 **c. Transfer of Property to the Liquidating Trust**

26 On the Effective Date, all property of the Estates and RSIC, all Litigation Claims, all
27 rights to acquire property, all contracts, leases and other agreements entered into by the Chapter
28 11 Trustee on or after the Slatkin Petition Date and the Topsight Trustee on or after the Topsight

1 Petition Date, which contracts, leases or other agreements have not expired or been terminated or
2 assigned, and including all Cash from the sales or dispositions of property or Litigation Claims
3 from the Slatkin Petition Date (or the Topsight Petition Date as the case may be) to the Effective
4 Date, all of which were made in contemplation of the Plan shall be transferred to and vested in
5 the Liquidating Trust free and clear of all liens, claims, encumbrances and other interests, except
6 as expressly provided in the Plan or the Confirmation Order. All Cash and other property
7 received or held by the Liquidating Trust shall be held in trust for the benefit of holders of
8 Allowed Administrative Expense Claims and Allowed Claims, subject to the provisions of the
9 Liquidating Trust Agreement and the Plan. Upon the transfer of such assets to the Liquidating
10 Trust, Slatkin, Topsight, RSIC and the Estates shall retain no interest in the property transferred
11 to the Liquidating Trust. For all United States federal income tax purposes, all parties
12 (including, without limitation, Slatkin, Topsight, RSIC, the Trustee and the Holders of Beneficial
13 Interests in the Liquidating Trust) will treat the transfer of assets to the Liquidating Trust as a
14 transfer of such assets to the Holders of Beneficial Interests in the Liquidating Trust followed by
15 a transfer of such assets by such Holders of Beneficial Interests in the Liquidating Trust to the
16 Liquidating Trust, with the Holders of Beneficial Interests in the Liquidating Trust being treated
17 as the grantors and owners of the Liquidating Trust. The Liquidating Trust is intended to qualify
18 as a "grantor trust" for United States federal income tax purposes with the Holders of Beneficial
19 Interests in the Liquidating Trust being treated as the grantors and owners of the Liquidating
20 Trust. Accordingly, because a grantor trust is treated as a pass-through entity for United States
21 federal income tax purposes, generally no tax should be imposed on the Liquidating Trust as
22 result of the transfer of assets thereto or on the income earned or gain recognized by the
23 Liquidating Trust. Instead, the Holders of Beneficial Interests in the Liquidating Trust will be
24 taxed on their allocable share of such net income or gain in each taxable year of the Liquidating
25 Trust (determined in accordance with the Liquidating Trust Agreement).

26 **d. Sale or Other Disposition of Property.**

27 After the Effective Date, the Liquidating Trust may use, acquire, sell and otherwise
28 dispose of the Liquidating Trust Assets in accordance with the Liquidating Trust Agreement and

1 the Plan, including but not limited to modifying any lien or secured claim or selling all or any
2 part of the Liquidating Trust Assets free of any lien pursuant to 11 U.S.C. §§ 1123(a)(5) and
3 (b)(5), without supervision of or approval by the Bankruptcy Court or the United States Trustee
4 and free of any restrictions in the Bankruptcy Code or the Bankruptcy Rules, except as otherwise
5 ordered by the Bankruptcy Court.

6 **e. Transfer of Litigation Claims.**

7 On the Effective Date, all Litigation Claims shall be transferred to and vested in the
8 Liquidating Trust free and clear of all liens, Claims, encumbrances and other interests, except as
9 expressly provided in the Plan or the Confirmation Order, and subject to all defenses and setoffs.
10 The Liquidating Trust shall have all of the rights, Claims, powers, objections and actions of the
11 Estates, the Topsight Trustee, RSIC and the Chapter 11 Trustee under Sections 363, 365, and
12 Sections 501 to 558, inclusive, of the Bankruptcy Code. The Litigation Claims transferred to the
13 Liquidating Trust shall be held in trust for the benefit of the holders of Allowed Administrative
14 Expense Claims and Allowed Claims, subject to the provisions of the Liquidating Trust
15 Agreement and the Plan. Slatkin, RSIC, Topsight and the Estates shall retain no interest in the
16 Litigation Claims transferred to the Liquidating Trust.

17 The Chapter 11 Trustee, the Creditors' Committee and their professionals have made a
18 diligent effort to identify in this Disclosure Statement Litigation Claims, including claims for
19 relief, counterclaims, and objections to claims. However, no reliance should be placed on the
20 fact that a particular Litigation Claim or objection to claim is or is not identified in the
21 Disclosure Statement. The Chapter 11 Trustee, the Creditors' Committee, the Liquidating Trust
22 or other parties in interest may seek to investigate, file and prosecute Litigation Claims after the
23 Confirmation or Effective Date of the Plan whether or not the Litigation Claims are identified in
24 this Disclosure Statement.

25 **f. Investigation and Prosecution of Litigation Claims.**

26 The Trustee shall investigate the Litigation Claims and determine which, if any, should
27 be prosecuted in his sole discretion in accordance with the Liquidating Trust Agreement and the
28 Plan. All Litigation Claims of the Slatkin Estate, Topsight, the Topsight Estate and RSIC are

1 preserved by the Plan and the Trustee, except for the explicit restrictions set forth in Section 9 of
2 the Liquidating Trust Agreement, shall have full power and authority to settle, adjust, retain,
3 enforce or abandon any Litigation Claim as representative of the Estates under Section 1123(b)
4 of the Bankruptcy Code or otherwise in accordance with the Liquidating Trust Agreement and
5 the Plan without supervision of or approval by the Bankruptcy Court or the United States Trustee
6 and free of any restrictions in the Bankruptcy Code or the Bankruptcy Rules. The Liquidating
7 Trust shall automatically be deemed to be substituted as a party in place of the Chapter 11
8 Trustee, Slatkin, Topsight, the Topsight Trustee, RSIC or the Creditors' Committee in any
9 Litigation Claims pending on the Effective Date. After the Effective Date, all Litigation Claims
10 shall be filed and prosecuted in the name of the Liquidating Trust or the Trustee in his capacity
11 as Trustee of the Liquidating Trust. The substantive consolidation of Slatkin, Topsight, RSIC
12 and the Estates contemplated under the Plan shall not create any Claim, including any Litigation
13 Claim or any counterclaim, defense or objection that did not exist prior to such substantive
14 consolidation. Notwithstanding the foregoing, however, to the extent the Chapter 11 Trustee
15 may not have been authorized to bring actions or motions under Sections 363, 365 and Sections
16 501 to 558, inclusive, of the Bankruptcy Code on behalf of RSIC in his capacity as general
17 partner of RSIC, upon the Effective Date and the substantive consolidation contemplated by the
18 Plan, the Trustee shall be authorized to bring actions and motions under Sections 363, 365 and
19 Sections 501 to 558, inclusive, of the Bankruptcy Code on behalf of RSIC in his capacity as
20 general partner of RSIC. In addition, the substantive consolidation of Slatkin, Topsight, RSIC
21 and the Estates contemplated under the Plan shall not, other than as between and among the
22 Slatkin Estate, the Topsight Estate and RSIC as set forth in section 6.2 herein, eliminate any
23 Claim, including any Litigation Claim, or any counterclaim, defense or objection that existed
24 prior to such substantive consolidation, merger, combination, winding-up, liquidation or
25 dissolution. Furthermore, for the purposes of substantive consolidation and any actions or
26 motions brought by the Chapter 11 Trustee under Sections 363, 365 and Sections 501 to 558,
27 inclusive, of the Bankruptcy Code, RSIC shall be treated as if an order for relief for RSIC had
28 been entered on the Slatkin Petition Date.

1
2
3
4
5
6
7
8
9
10
11
12
13
14

g. Setoff

Before any distribution is made on account of an Allowed Administrative Expense Claim or Allowed Claim, the Liquidating Trust may, pursuant to Sections 553 and 558 of the Bankruptcy Code or applicable nonbankruptcy law, set-off or recoup against such Allowed Administrative Expense Claim or Allowed Claim any and all of the Claims, rights, causes of action, counterclaims, defenses and objections that Slatkin, Topsight, RSIC, the Estates or the Liquidating Trust may hold against the holder of that Allowed Administrative Expense Claim or Allowed Claim. However, any failure to effect such setoff or recoupment or the allowance of any Allowed Administrative Expense Claim or Allowed Claim shall not constitute any waiver or release of any Claim, right, cause of action, counterclaim, defense or objection against the holder of such Allowed Administrative Expense Claim or Allowed Claim and shall not preclude full recovery by the Liquidating Trust of such Claim, right, cause of action, counterclaim, defense or objection.

15
16
17
18
19
20
21
22
23

h. Employment of Officers, Employees and Professionals.

On and after the Effective Date, the Liquidating Trust and the Liquidating Trustees may employ and compensate such professionals, agents and representatives, including disbursing agents, as the Trustee or the Liquidating Trustees determine is necessary or appropriate pursuant to the terms of the Liquidating Trust Agreement and the Plan without any supervision of or approval by the Bankruptcy Court or the United States Trustee, including professionals, agents and representatives employed the Slatkin Estate, the Topsight Estate, the Topsight Trustee, the Chapter 11 Trustee or the Creditors' Committee prior to the Effective Date.

24
25
26
27
28

i. Review of and Objections to Administrative Expense Claims, Claims and Interests.

On and after the Effective Date, the Liquidating Trustees shall be the sole representatives of the Estates entitled to review and, where necessary or appropriate and pursuant to the terms of the Liquidating Trust Agreement, object to Administrative Expense Claims, Claims and Interests, which shall thereafter be Resolved in accordance with the Bankruptcy Code and the Bankruptcy Rules.

1 required by applicable law by virtue of the existence and operation of the Liquidating Trust and
2 shall pay any taxes shown as due thereon.

3 **l. No Implied Duties.**

4 The Liquidating Trustees shall not manage, control, use, sell, dispose, collect or
5 otherwise deal with the Trust Estate or otherwise take any action hereunder except as expressly
6 provided in the Plan or the Liquidating Trust Agreement, and no implied duties or obligations
7 whatsoever of the Liquidating Trustees shall be read into the Liquidating Trust Agreement.
8 Except as otherwise expressly provided in the Plan or the Liquidating Trust Agreement, the
9 Liquidating Trustees shall have no duties or obligations under any laws or statutes otherwise
10 applicable to trusts.

11 **m. Transferability Of Trust Interests.**

12 Trust Interests will not be evidenced by any certificate or other instrument or document.
13 Trust Interests in the Liquidating Trust are transferable and assignable, as provided in Section 3.1
14 of the Liquidating Trust Agreement.

15 **n. Injunction Against Commencement or Continuation of Action**
16 **Against the Slatkin Estate, Topsight, RSIC, the Topsight**
17 **Trustee, the Chapter 11 Trustee, Liquidating Trust, the**
18 **Liquidating Trust Assets or Liquidating Trustees Without**
19 **Bankruptcy Court Approval.**

20 On and after the Effective Date, other than the Liquidating Trust, all persons and entities
21 are enjoined from commencing or continuing an action proceeding, employment of process, in
22 any court or other tribunal, other than the Bankruptcy Court, against the Slatkin Estate, Topsight,
23 the Topsight Estate, RSIC, the Topsight Trustee, the Chapter 11 Trustee, the Liquidating Trust,
24 the Liquidating Trust Assets, the Liquidating Trustees, or any of their professionals, agents or
25 representatives, without the prior approval of the Bankruptcy Court in a Final Order. On and
26 after the Effective Date, other than the Liquidating Trust, all persons and entities are enjoined
27 from acting to collect or recover from, or offset against, or to create, perfect or enforce any right,
28 claim, interest or remedy against the Slatkin Estate, Topsight, RSIC, the Topsight Trustee, the

1 the Liquidating Trustees' Expense Reserves, the Reserve for Unclaimed Distributions and the
2 Reserve for Disputed Claims at the end of each period, (ii) financial statements showing receipts
3 and disbursements of the Liquidating Trust, the Liquidating Trustees' Expense Reserve, the
4 Reserve for Unclaimed Distributions and the Reserve for Disputed Claims during the period, (iii)
5 a brief written report from the Trustee about the disposition of assets in the Trust Estate and
6 distributions remaining, (iv) a written report showing the number and amount of Beneficial
7 Interests, Disputed Administrative Expense Claims and Disputed Claims and changes during the
8 period, and (v) any other written report the Trustee deems necessary or appropriate;

9 2. Upon posting or mailing the Periodic Report, the Trustee shall file the Periodic
10 Report with the Bankruptcy Court, and any other governmental unit or agency thereof that may
11 be necessary or appropriate;

12 3. The Trustee shall prepare and file unaudited interim financial statements and
13 written reports as may be required by regulatory authorities, applicable laws, rules or regulations
14 or as the Trustee deems necessary or appropriate during the fiscal year;

15 4. The Trustee shall prepare, file and mail any reports, forms or other information or
16 documents that may have to be filed with the SEC or any other governmental unit or agency
17 thereof that may be necessary or appropriate;

18 5. The Trustee shall prepare and distribute any other reports or other information the
19 Trustee determines is necessary or appropriate; and

20 6. The right of the Holders to receive reports and other information as set forth in the
21 Liquidating Trust Agreement is in lieu of the right to access information under Section 3819 of
22 the Delaware Act.

23 **q. No Recourse Against Liquidating Trustees.**

24 No recourse shall ever be had, directly or indirectly, against the Liquidating Trustees or
25 any of the officers, employees, professionals, agents or representatives of the Liquidating Trust,
26 whether by legal, equitable or other proceedings, by virtue of any law, statute, regulation or
27 otherwise, or by virtue of any indebtedness of Slatkin, Topsight, RSIC, the Chapter 11 Trustee,
28 the Topsight Trustee, the Estates or the Liquidating Trust, it being expressly understood and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

c. Delivery of Distributions.

Unless otherwise agreed by the Liquidating Trustees, each distribution of Cash by the Liquidating Trust on each Distribution Date shall be made by first class United States mail, postage prepaid, to the holder of an Allowed Administrative Expense Claim or Allowed Claim as of the corresponding Distribution Record Date to the latest address set forth on a request for payment of an Allowed Administrative Expense Claim, a proof of Claim filed with the Bankruptcy Court on account of an Allowed Claim, the Schedules, or a written notice of change of address delivered to the Liquidating Trustees after the Effective Date, or a notice delivered to the Chapter 11 Trustee, the Topsight Trustee or the Liquidating Trustees under Bankruptcy Rule 3001 identifying the name and address of the entity to whom an Allowed Administrative Expense Claim or an Allowed Claim, whichever is the most recent, has been transferred, but prior to the Effective Date. Otherwise, any transfer must comply with the transfer requirements set forth in section 3.1 of the Liquidating Trust Agreement. The Liquidating Trustees shall not be required to make any other effort to locate or ascertain any address for any distribution.

2. Unclaimed Distributions.

Any distributions of Cash under the Plan that are returned as unclaimed or undeliverable shall be allocated to a reserve administered by the Trustee (the "Reserve for Unclaimed Distributions") for one (1) year after the distribution was first attempted. If the Trustee thereafter receives written notice of the then current address to which the distribution should be made during one (1) year after the distribution was first attempted, the Trustee shall make the distribution from the Reserve for Unclaimed Distributions to the designated address without interest. Any and all Allowed Administrative Expense Claims or Allowed Claims in respect of distributions of Cash that remain unclaimed or undeliverable one (1) year after distribution was first attempted shall be forever barred from any distributions from the Liquidating Trust and the Cash represented by the unclaimed or undeliverable distribution shall be reallocated by the Trustee to make other distributions of Cash required by the Plan.

1 Claim or Disputed Claim is Resolved as qualifying as an Allowed Administrative Expense Claim
2 or Allowed Claim in an amount in excess of the amount allocated to the Reserve for Disputed
3 Claims on account of the Allowed Administrative Expense Claim or Allowed Claim.

4 **4. The Claims Register.**

5 The Liquidating Trust shall maintain a Claims Register which shall list (a) the current
6 name and address of the holder of each Allowed Administrative Expense Claim, Disputed
7 Administrative Expense Claim, Allowed Claim, and Disputed Claim, based on written requests
8 for payment of Allowed Administrative Expense Claims or Disputed Administrative Expense
9 Claims or proofs of Claims filed with the Bankruptcy Court on account Allowed Claims or
10 Disputed Claims or the Schedules or a written notice of a change of address delivered to the
11 Liquidating Trustees after the Effective Date, or a notice delivered to the Chapter 11 Trustee, the
12 Topsight Trustee or the Liquidating Trustees under Bankruptcy Rule 3001 identifying the name
13 and address of the entity to whom an Allowed Administrative Expense Claim, a Disputed
14 Administrative Expense Claim, an Allowed Claim or a Disputed Claim has been transferred,
15 whichever is the most recent, (b) the amount of each, (c) the Class of each Allowed Claim and
16 Disputed Claim, (d) the amount of Cash that has been distributed to the holder of each Allowed
17 Administrative Expense Claim and Allowed Claim, (e) the amount of Cash allocated to the
18 Reserve for Unclaimed Distributions on account of each Allowed Administrative Expense Claim
19 and Allowed Claim and (f) the amount of Cash allocated to the Reserve for Disputed Claims on
20 account of each Disputed Administrative Expense Claim and each Disputed Claim. The Claims
21 Register shall be updated at least quarterly during each fiscal year of the Liquidating Trust. The
22 Trustee shall establish the Claims Register that is to be used to make distributions of Cash on any
23 Distribution Date on or before the corresponding Distribution Record Date. The Trustee shall
24 not be required to revise the Claims Register during the period from the Distribution Record
25 Date to the corresponding Distribution Date.

26 **5. Tax Requirements.**

27 The Liquidating Trust shall comply with all payment, withholding and reporting
28 requirements imposed by any federal, state or local laws. All distributions of Cash by the

1 the Effective Date pursuant to a Final Order upon motion and after notice and opportunity for
2 hearing in accordance with the Bankruptcy Code and the Bankruptcy Rules.

3 **3. Bar Date For Rejection Objections And Rejection Claims.**

4 **PROOFS OF CLAIM BASED ON THE REJECTION OF EXECUTORY**
5 **CONTRACTS AND UNEXPIRED LEASES REJECTED UNDER THE PLAN AS OF**
6 **THE EFFECTIVE DATE AND ANY OBJECTION TO THE REJECTION OF SUCH**
7 **EXECUTORY CONTRACTS OR UNEXPIRED LEASES MUST BE FILED WITH THE**
8 **BANKRUPTCY COURT AND DELIVERED TO THE ATTORNEYS FOR THE**
9 **CHAPTER 11 TRUSTEE AND THE CREDITORS' COMMITTEE ON OR BEFORE**
10 **THE DATE AND TIME SET BY THE BANKRUPTCY COURT AS THE LAST DATE**
11 **AND TIME ON WHICH TO FILE AND DELIVER OBJECTIONS TO THE**
12 **CONFIRMATION OF THE PLAN OR THEY SHALL BE FOREVER BARRED. ANY**
13 **CLAIM ARISING FROM THE REJECTION OF AN EXECUTORY CONTRACT OR**
14 **UNEXPIRED LEASE UNDER THE PLAN SHALL BE TREATED AS A DISPUTED**
15 **CLAIM AND SHALL BE REVIEWED AND, WHERE NECESSARY OR**
16 **APPROPRIATE, OBJECTED TO BY THE CHAPTER 11 TRUSTEE, THE**
17 **CREDITORS' COMMITTEE OR LIQUIDATING TRUSTEES AND RESOLVED IN**
18 **ACCORDANCE WITH THE BANKRUPTCY CODE AND THE BANKRUPTCY**
19 **RULES. ANY ALLOWED CLAIM ARISING FROM THE REJECTION OF AN**
20 **EXECUTORY CONTRACT OR UNEXPIRED LEASE SHALL QUALIFY FOR**
21 **INCLUSION IN CLASS 4, UNLESS OTHERWISE DETERMINED BY THE**
22 **BANKRUPTCY COURT IN A FINAL ORDER. BY SELECTING THE APPROPRIATE**
23 **BOX ON THE BALLOT ACCOMPANYING THE PLAN, THE HOLDER OF THE**
24 **ALLOWED CLAIM MAY ELECT TO QUALIFY THE ALLOWED CLAIM FOR**
25 **INCLUSION IN CLASS 3 UNDER THE PLAN IF THE REQUIREMENTS FOR SUCH**
26 **TREATMENT SET FORTH IN SECTION 5.3 OF THE PLAN ARE SATISFIED.**

27
28

1 FOR THE CHAPTER 11 TRUSTEE AND THE CREDITORS' COMMITTEE ON OR
2 BEFORE THE DATE AND TIME SET BY THE BANKRUPTCY COURT AS THE LAST
3 DATE AND TIME ON WHICH TO FILE AND DELIVER OBJECTIONS TO THE
4 CONFIRMATION OF THE PLAN OR THE HOLDER OF THE OBJECTIONS OR
5 CURE CLAIM SHALL BE FOREVER ESTOPPED FROM ASSERTING SUCH
6 OBJECTION OR CURE CLAIM. THE CHAPTER 11 TRUSTEE RESERVES THE
7 RIGHT TO REJECT ANY EXECUTORY CONTRACT OR UNEXPIRED LEASE WITH
8 RESPECT TO WHICH ANY SUCH OBJECTION OR CURE CLAIM IS FILED. THE
9 CHAPTER 11 TRUSTEE WILL REQUEST THAT THE BANKRUPTCY COURT
10 RESOLVE ANY SUCH OBJECTION AT THE HEARING ON THE CONFIRMATION
11 OF THE PLAN. ANY CURE CLAIM SHALL BE TREATED AS A DISPUTED
12 ADMINISTRATIVE EXPENSE CLAIM UNDER THE PLAN AND SHALL BE
13 REVIEWED AND, WHERE NECESSARY OR APPROPRIATE, OBJECTED TO BY
14 THE CHAPTER 11 TRUSTEE, CREDITORS' COMMITTEE OR LIQUIDATING
15 TRUSTEES AND THEREAFTER RESOLVED IN ACCORDANCE WITH THE
16 BANKRUPTCY CODE AND THE BANKRUPTCY RULES.

17 **a. Approval Of Assumption And Assignment.**

18 The Confirmation Order shall constitute an order approving the assumption and
19 assignment of the executory contracts and unexpired leases described above. Pursuant to Section
20 365(k) of the Bankruptcy Code, the assignment of the executory contracts and unexpired leases
21 described above to the Liquidating Trust shall relieve the Slatkin Estate, Topsight, the Topsight
22 Estate, RSIC, the Chapter 11 Trustee, and the Topsight Trustee from any liability for any breach
23 of such contract or lease. Any executory contract or unexpired lease that is inadvertently omitted
24 from the Schedule of Assumed Executory Contracts and Unexpired Leases may, subject to the
25 requirements of Section 365(b) of the Bankruptcy Code, be assumed and assigned to the
26 Liquidating Trust pursuant to a Final Order entered after the Effective Date upon motion and
27 after notice and opportunity for hearing in accordance with the Bankruptcy Code and the
28 Bankruptcy Rules.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

b. No Stay.

There shall not be any stay in effect with respect to the Confirmation Order;

c. Final Order.

The Confirmation Order shall be a Final Order;

d. Approval Of Certain Documents.

The Plan and the Liquidating Trust Agreement and all documents, instruments and agreements to be executed in connection therewith shall have been approved by the Bankruptcy Court; and

e. Execution Of Certain Documents.

The Plan, the Liquidating Trust Agreement and all documents, instruments and agreements to be executed in connection therewith shall have been executed and delivered by all parties thereto.

f. Waiver Of Conditions.

The conditions set forth in Sections 11.1.3, 11.1.4 and 11.1.5 of the Plan may be waived or modified in whole or in part by the Plan Proponents. The conditions set forth in Sections 11.1.1 and 11.1.2 of the Plan may not be waived or modified in whole or in part by any entity.

G. Miscellaneous Provisions.

1. Binding Effect.

The Plan and the Confirmation Order shall be binding upon and inure to the benefit of the Chapter 11 Trustee, Topsight, the Topsight Trustee, RSIC, the Creditors' Committee, the Liquidating Trust, the Liquidating Trustees, the holders of all Claims and Interests, all parties in interest in the Cases, and their successors, assigns, heirs, executors, administrators and representatives.

2. Choice of Law.

Subject to the provisions of the Plan, the Confirmation Order and any contract, certificate, bylaws, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, and except to the extent the Bankruptcy Code, the Bankruptcy Rules or other federal law may apply, the rights and obligations arising under the Plan shall be

1 governed by, and construed and enforced in accordance with, the laws of the State of California,
2 without giving effect to the principles of conflict of laws of the State of California.

3 **3. Entire Agreement.**

4 The Plan and the Liquidating Trust Agreement supersede all negotiations and discussions
5 which preceded the Plan and the Liquidating Trust Agreement. The Plan and the Liquidating
6 Trust Agreement are intended as a final expression of the provisions set forth in the Plan and the
7 Liquidating Trust Agreement and may not be contradicted by evidence of prior or
8 contemporaneous oral or other agreements. The Plan and the Liquidating Trust Agreement are
9 also intended as a complete and exclusive statement of the provisions of the Plan and the
10 Liquidating Trust Agreement.

11 **4. Retiree Benefits.**

12 Slatkin, the Slatkin Estate, Topsight, the Topsight Estate, the Chapter 11 Trustee and
13 RSIC are not obligated for any retiree benefits within the meaning of Sections 1114 and
14 1129(a)(13) of the Bankruptcy Code.

15 **5. Revocation Or Withdrawal Of Plan.**

16 The Plan Proponents reserve the right to revoke or withdraw the Plan prior to the
17 Confirmation Date. Until the Effective Date occurs, nothing set forth in the Plan or the
18 Confirmation Order shall constitute a waiver or release of any Claim by or against Slatkin,
19 Topsight, RSIC, the Chapter 11 Trustee, the Topsight Trustee or any other entity or prejudice in
20 any manner the rights and Claims of Slatkin, Topsight, RSIC, the Chapter 11 Trustee, the
21 Topsight Trustee or any other entity in any proceeding or otherwise. The Chapter 11 Trustee or
22 the Creditors' Committee may withdraw as a Plan Proponent as each of them may, in their sole
23 discretion, determine. Such withdrawal will be effective upon notice of such withdrawal being
24 delivered to the other Plan Proponent. The withdrawing Plan Proponent will not object to the
25 other Plan Proponent (a) seeking to confirm the Plan or (b) filing and seeking to confirm some
26 other chapter 11 plan of reorganization in the Slatkin Case.

1 liable, on account of such solicitation or participation, for violation of any applicable law, rule or
2 regulation governing solicitation of acceptance or rejection of a plan or the offer, issuance, sale,
3 or purchase of securities.

4 **9. The Securities Laws.**

5 **a. Exemption From Registration Issues.**

6 In reliance upon an exemption from the registration requirements of the Securities Act of
7 1933, as amended (the "Securities Act"), and of state and local securities laws afforded by
8 section 1145 of the Bankruptcy Code, the Trust Interests to be issued pursuant to the Plan on and
9 after the Effective Date need not be registered under the Securities Act or any state or local
10 securities laws.

11 **b. Exchange Act Reporting Obligations And Registration Under**
12 **Investment Company Act.**

13 The Plan Proponents anticipate that the Liquidating Trust may, under certain
14 circumstances, be required to register or otherwise report under the Securities Act of 1934, as
15 amended (the "Exchange Act"), and accordingly be required to file with the SEC and send to the
16 holders of Trust Interests certain periodic reports and other information pursuant to the Exchange
17 Act. The reports may be the same as or different from those required to be distributed to the
18 holders of Trust Interests pursuant to the Plan and Liquidating Trust Agreement. See Section
19 III.C.2.p. of the Disclosure Statement. In addition, the Plan Proponents currently anticipate that
20 the Liquidating Trust will be exempt from registration under the Investment Company Act of
21 1940. Exemptions may be sought from the SEC from all or some of the reporting requirements
22 of the Exchange Act or the Investment Company Act, if it is determined that such reporting is
23 required and that compliance with such requirements would be burdensome. The Plan
24 Proponents have not yet made any determinations regarding whether any such exemptions will
25 be sought and the SEC has not yet made any determinations regarding such matters. There is no
26 assurance that any such exemptions, if deemed necessary and applied for, will be granted.

1 **IV. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

2 The following discussion is a summary of certain U.S. federal income tax consequences
3 of the Plan to holders of Allowed Claims and Interests and is intended solely for the purpose of
4 alerting readers about possible U.S. federal income tax issues the Plan may present. The Plan
5 Proponents cannot and do not represent that the tax consequences contained below are the only
6 tax consequences of the Plan, and no representations are being made regarding the particular tax
7 consequences of the Plan to any holder of an Allowed Claim or Interest.

8 This discussion is based on the Internal Revenue Code, Treasury Regulations
9 promulgated and proposed thereunder, judicial decisions and published administrative rules and
10 pronouncements of the IRS as in effect on the date hereof. Due to the complexity of certain
11 aspects of the Plan, the lack of applicable legal precedent, the possibility of changes in the law,
12 the differences in the nature of the Allowed Claims (including Allowed Claims within the same
13 Class) and Interests, the holders' status and method of accounting (including holders within the
14 same Class), the lack of certainty regarding factual matters, and the potential for disputes as to
15 legal and factual matters with the IRS, the tax consequences described herein are subject to
16 significant uncertainties. No legal opinions have been requested from counsel with respect to
17 any of the tax aspects of the Plan and no rulings have been or will be requested from the IRS
18 with respect to the any of the issues discussed below. Furthermore, legislative, judicial or
19 administrative changes may occur, perhaps with retroactive effect, which could affect the
20 accuracy of the statements and conclusions set forth below as well as the tax consequences to the
21 holders of Allowed Claims and Interests.

22 This discussion does not purport to address all aspects of U.S. federal income taxation
23 that may be relevant to the holders of Allowed Claims or Interests in light of their personal
24 circumstances, nor does the discussion deal with tax issues with respect to taxpayers subject to
25 special treatment under the U.S. federal income tax laws (including, for example, banks,
26 governmental authorities or agencies, pass-through entities, brokers and dealers in securities,
27 insurance companies, financial institutions, tax-exempt organizations or accounts, small business
28

1 investment companies, regulated investment companies and foreign taxpayers). No aspect of
2 foreign, state, local or estate and gift taxation is addressed.

3 **THIS DISCUSSION IS NOT INTENDED TO PROVIDE TAX OR OTHER**
4 **LEGAL ADVICE TO ANY HOLDER OF AN ALLOWED CLAIM OR INTEREST OR**
5 **ANY OTHER ENTITY OR PARTY, AND IT IS NOT A SUBSTITUTE FOR CAREFUL**
6 **TAX PLANNING AND ADVICE BASED UPON THE PERSONAL CIRCUMSTANCES**
7 **OF EACH HOLDER OF AN ALLOWED CLAIM OR INTEREST. EACH HOLDER OF**
8 **AN ALLOWED CLAIM OR INTEREST IS URGED TO CONSULT WITH SUCH**
9 **HOLDER'S TAX ADVISORS CONCERNING THE U.S. FEDERAL, STATE, LOCAL,**
10 **FOREIGN AND OTHER TAX CONSEQUENCES APPLICABLE UNDER THE PLAN.**

11 **A. Treatment of the Liquidating Trust**

12 **1. Classification of the Liquidating Trust**

13 Pursuant to the Plan, the Slatkin Estate, the Topsight Estate and RSIC will transfer
14 substantially all of their assets to the Liquidating Trust and the Liquidating Trust will become
15 obligated to make distributions in accordance with the Plan. The Plan provides, and this
16 discussion assumes, that the Liquidating Trust will be treated for federal income tax purposes as
17 a "liquidating trust," as defined in Treasury Regulation Section 301.7701-4(d), and will therefore
18 be taxed as a grantor trust, of which the holders of beneficial interests in the Liquidating Trust
19 (collectively, the "Beneficiaries" and each a "Beneficiary") will be treated as the owners and
20 grantors thereof. Accordingly, because a grantor trust is treated as a pass-through entity for
21 federal income tax purposes, no tax should be imposed on the Liquidating Trust itself or on the
22 income earned or gain recognized by the Liquidating Trust. Instead, the Beneficiaries will be
23 taxed on their allocable shares of such net income or gain in each taxable year (determined in
24 accordance with the Liquidating Trust Agreement), and will be responsible for paying the taxes
25 associated with such allocable net income and gain whether or not they received any
26 distributions from the Liquidating Trust in such taxable year.

27 Although the Liquidating Trust has been structured with the intention of complying with
28 guidelines established by the IRS in Rev. Proc. 94-45, 1994-2 C.B. 684, for the formation of

1 liquidating trusts, it is possible that the IRS could require a different characterization of the
2 Liquidating Trust, which could result in different and possibly greater tax liability to the
3 Liquidating Trust and/or the holders of Allowed Claims. No ruling has been or will be requested
4 from the IRS concerning the tax status of the Liquidating Trust and there can be no assurance the
5 IRS will not require an alternative characterization of the Liquidating Trust. If the Liquidating
6 Trust were determined by the IRS to be taxable not as a liquidating trust, as described in
7 Treasury Regulation Section 301.7701-4(d), the taxation of the Liquidating Trust and the transfer
8 of assets to the Liquidating Trust could be materially different than is described herein and could
9 have a material adverse effect on the holders of Allowed Claims.

10 **2. Tax Reporting for Liquidating Trust**

11 The Liquidating Trustee will file, or cause to be filed, tax returns with the IRS for the
12 Liquidating Trust as a grantor trust in accordance with Treasury Regulation Section 1.671-4(a)
13 and the Liquidating Trust Agreement. In accordance with the Liquidating Trust Agreement, the
14 Liquidating Trustee will also send to each Beneficiary a separate statement setting forth such
15 Beneficiary's allocable share of items of income, gain, loss, deduction or credit and will instruct
16 such Beneficiary to report such items on such Beneficiary's federal income tax return.

17 **3. Reserve for Disputed Claims**

18 Under the Plan, the Liquidating Trustee must establish a reserve on account of any
19 distributable amounts required to be set aside on account of Disputed Claims. Such amounts, net
20 of certain expenses, shall be distributed in accordance with the terms of the Liquidating Trust
21 Agreement as such Disputed Claims are resolved. The Liquidating Trust will pay taxes on the
22 taxable net income or gain allocable to holders of Disputed Claims on behalf of such holders
23 and, when such Disputed Claims are ultimately resolved, holders whose Disputed Claims are
24 determined to be Allowed Claims will receive distributions from the Liquidating Trust net of
25 taxes which the Liquidating Trust had previously paid on their behalf.

26 **B. Holders Of Allowed Claims.**

27 The U.S. federal income tax consequences of the Plan to holders of Allowed Claims will
28 depend on several factors, including, but not limited to: (i) the origin of the holder's Allowed